Supreme Court, U.S.
FILED

091507 JUN 8 - 2010

OFFICE OF THE CLERK

No. _____

In The
SUPREME COURT OF THE UNITED STATES

SEGUNDO SEUNOS, LLC,

Petitioner,

v.

NASRIN SATCHELL, *et al.*,

Respondents.

On Petition For a Writ of Certiorari
To the California Supreme Court

PETITION FOR A WRIT OF CERTIORARI

Brian D. Boydston (SBN 155614)
PICK & BOYDSTON
617 South Olive Street, Suite 400
Los Angeles, California 90014
(213) 624-1996
Fax (213)624-9073
bdb@pickboydston.com

QUESTION PRESENTED

Do California's state courts have jurisdiction to adjudicate matters which require the interpretation of Section 204(a) of the United States Copyright Act (17 U.S.C. Section 204(a)).

PARTIES TO THE CALIFORNIA PROCEEDINGS

The names of all Petitioners are as follows:

Segundo Suenos, LLC, a Texas Limited Liability Company

The names of all Respondents are as follows:

NASRIN SATCHELL, INDIVIDUALLY AND AS GUARDIAN FOR ALEXIS SATCHELL AND CLARENCE SATCHELL,

ALEXIS SATCHELL,

CLARENCE SATCHELL,

DESIRAE SATCHELL,

SHAWDEE SATCHELL,

TRACY L. DRAPER-BLUNT, an individual and as Co-Executor of the Estate of Ralph Middlebrooks and as Co-Administrator of the Estate of Patricia Middlebrooks,

RAY GADDIS, as Co-Executor of the Estate of Ralph Middlebrooks,

TRISHA WOODS as Co-Administrator of the Estate of Patricia Middlebrooks

TABLE OF CONTENTS

Page

QUESTION PRESENTED..... i

PARTIES TO THE CALIFORNIA PROCEEDINGS..... ii

TABLE OF CONTENTS..... iv

TABLE GF AUTHORITIES..... v

PETITION FOR WRIT OF CERTIORARI..... 1

OPINIONS BELOW..... 1

JURISDICTION..... 2

RELEVANT STATUTORY PROVISIONS..... 3

STATEMENT..... 3

REASONS FOR GRANTING THE WRIT..... 9

CONCLUSION..... 15

TABLE OF AUTHORITIES

Federal Cases Page(s)

Image Software, Inc. v. Reynolds & Reynolds Co., 459 F.3d 1044, 1051 (10th Cir. 2006)..... 10

Christianson v. Colt Industries Operating Corp., 486 U.S. 800, 807-808 (1988) 13

Howell v. Mississippi, 543 U.S. 440 (2005)..... 2

Jim Arnold Corp. v. Hydrotech Systems, Inc., 109 F.3d 1567, 1572 (Fed. Cir. 1997) 7

Pierce County, Washington v. Guillen, 537 U.S. 129, 140 (2003)..... 2

Prize Frize, Inc. v. Matrix (U.S.) Inc., 167 F.3d 1261, 1264 (9th Cir. 1999) 11

Scholastic Entertainment, Inc. v. Fox Entertainment Group, Inc., 336 F.3d 982, 986 (9th Cir. 2003).... 2, 10

California Cases Page(s)

Cedars-Sinai Med. Ctr. v. Super.Ct. (Bowyer) 18 Cal.4th 1, 5-7 (1998)..... 12

People v. Birks 19 Cal.4th 108, 116 (1998)..... 12

People v. Braxton 34 Ca!.4th 798 (2004)..... 12

Federal Statutes Page(s)

17 U.S.C. §204(a)..... 1, 3, 7, 8, 9, 12, 13

28 U.S.C. §1257..... 2

28 U.S.C. §1338(a)..... 2

California Statutes Page(s)

Rules of Court Rule 8.516(b)(2)..... 12

PETITION FOR WRIT OF CERTIORARI

Segundo Suenos, LLC, a Texas limited liability company ("Segundo Suenos", or "SSL") petitions the Court for a writ of certiorari to review the California Supreme Court's denial of Segundo Suenos' Petition for Review of the Decision of the California Court of Appeal, Second Appellate District, Division Three, Case Nos. B213178 and B213251, on March 10, 2010, upholding the decision of the California Court of Appeal wherein that court based its decision on a substantive interpretation of Section 204(a) of the United States Copyright Act (17 U.S.C. Section 204(a)).

OPINIONS BELOW

The March 10, 2010 decision of the California Supreme Court to deny Segundo Suenos' Petition for Review is not published, but is included in the Appendix (App., *infra*, at 1). The decision of the California Court of Appeal, Second Appellate District, Division Three, is not published, but is included in the Appendix (App., *infra*, at 13). The

decision of the Los Angeles Superior Court is not published, but is included in the Appendix (App., *infra*, at 2).

JURISDICTION

The decision of the California Supreme Court was entered on March 10, 2010. Final judgments rendered by a state's highest court may be reviewed by writ of certiorari to this Court where the validity of any treaty or federal statute is drawn into question or where the constitutionality of a state law is at issue. *See* 28 U.S.C. §1257; Howell v. Mississippi, 543 U.S. 440, 442-443, 125 S.Ct. 856, 858 (2005); and Pierce County, Washington v. Guillen, 537 U.S. 129, 140, 123 S.Ct. 720, 728 (2003). Here, a federal statute, specifically Section 204(a) of the United States Copyright Act, has been interpreted by the California Court of Appeal, despite the fact that interpretation of the Copyright Act is the exclusive province of the Federal judiciary. *See* 28 USCA § 1338(a), *and see* Scholastic Entertainment, Inc. v. Fox Entertainment Group,

Inc., 336 F.3d 982, 986 (9th Cir. 2003).

RELEVANT STATUTORY PROVISIONS

The relevant statutory provision at issue is Section 204(a) of the United States Copyright Act (17 U.S.C. Section 204(a)) which reads as follows:

"(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent."

STATEMENT

On June 4, 1998, Segundo Suenos' predecessor in interest, Artist Rights Foundation, a California limited liability company ("ARF"), entered into an agreement with Respondents NASRIN SATCHELL, both individually and as guardian for Defendants ALEXIS SATCHELL, CLARENCE SATCHELL, DESIRAE SATCHELL, AND SHAWDEE SATCHELL (collectively, "Satchell Defendants").

Satchell Defendants were the exclusive successors in interest and heirs of the late Clarence Satchell, a member of the musical group known as "The Ohio Players". The agreement between ARF and Satchell Defendants concerned Satchell Defendants' "collective interest in the sound recordings, musical compositions and trademarks, composed, recorded, and utilized by the late Clarence Satchell and any derivative versions thereof", and constituted an assignment of Satchell Defendants' interest in the musical rights of Clarence Satchell to ARF (the "Satchell Assignment Agreement")."

On June 4, 1998, ARF also entered into an agreement with Respondents TRACY L. DRAPER-BLUNT, RAY GADDIS, and TRISHA WOODS (collectively, "Middlebrooks Defendants"). Middlebrooks Defendants were the exclusive successors in interest and heirs of the late Ralph Middlebrooks, another member of the musical group known as "The Ohio Players". The agreement between ARF and Middlebrooks Defendants

concerned Middlebrooks Defendants' "collective interest in the sound recordings, musical compositions and trademarks, composed, recorded, and utilized by the late Ralph Middlebrooks and any derivative versions thereof", and constituted an assignment of Middlebrooks Defendants' interest in the musical rights of Ralph Middlebrooks to ARF (the "Middlebrooks Assignment Agreement")."

In June 2005, ARF's sole active member, Raul Galaz, transferred ARF's rights under the Satchell and Middlebrooks Assignment Agreements (collectively "the Assignment Agreements") to Segundo Suenos, which is owned by Raul Galaz' father, Al Galaz. Raul Galaz then became, and remains, a consultant and representative of Segundo Suenos.

In November of 2005, Segundo Suenos discovered that, despite assigning their rights to collect copyright royalties to ARF, the Satchell and Middlebrooks Defendants had breached the

Assignment Agreements by, among other things, availing themselves of opportunities to direct copyright royalty payments to themselves behind the back of ARF and Segundo Suenos, and collecting and keeping those royalty payments while concealing the same from Segundo Suenos. That discovery lead to the filing of two separate civil actions against the Satchell Defendants and the Middlebrooks Defendants in 2006.

Thus, these cases began as simple contract actions. The cases were consolidated and the ensuing one-day bench trials were ones of simply proving up the Satchell and Middlebrooks Defendants assignments to ARF, and calculating damages. The Satchell action was tried on January 31, 2008, and the Middlebrooks action was tried the next day.

After trial, the Trial Court invited post trial briefs, then more such briefs, and then even more. In the end, after eight months and a total of thirty-

four (34) post trial briefs between the two actions, the Trial Court issued a joint Proposed Statement of Decision regarding both cases, in which the Trial Court did not decide the matter based on whether or not the Satchell and Middlebrooks Defendants had assigned their rights to ARF, or breached that agreement. Rather, the Trial Court embraced the "sub rosa" issue of Segundo Suenos' standing to bring the actions, finding that pursuant to Section 204(a) of the United States Copyright Act (17 U.S.C. Section 204(a)), Segundo Suenos had failed to prove that ARF had assigned its rights in the Assignment Agreements to Segundo Suenos. That was reduced to a final Statement of Decision, and on December 9, 2008, a judgment was entered in which the Trial Court held for the Satchell and Middlebrooks Defendants.

This was astonishing in that Raul Galaz, who was on "both sides" of the transaction, unequivocally testified that such assignment had been made, and there was no evidence to the contrary. In addition,

trial was reopened several months after the two one-day trials, and the ARF-Segundo Suenos written assignment itself was entered into evidence, seemingly putting the matter beyond question. Nevertheless, the Trial Court decided that the ARF-Segundo Suenos' written assignment did not satisfy the requirements of Section 204(a) of the United States Copyright Act.

To Segundo Suenos, the decision was shocking, thoroughly flawed on its face, and clearly the product of excessive delay and over briefing.

On appeal, by way of its December 9, 2009 decision, California's Second Appellate District upheld the Trial Court's conclusion on the grounds that the Assignment Agreements did not satisfy the requirements of Section 204(a) of the United States Copyright Act (17 U.S.C. Section 204(a)). (App., *infra*, at 19-22). Segundo Suenos petitioned the Second District for re-hearing with regard to the factual record and application of Section 204(a), and

such petition was denied on December 29, 2009.

On January 14, 2010, Segundo Suenos petitioned the California Supreme Court for review of the Second Appellate District's decision, specifically with regard to the Second Appellate District's interpretation of Section 204(a) of the United States Copyright Act. (App., *infra*, at 27). On March 10, 2010, the California Supreme Court denied the Petition for Review. (App., *infra*, at 1).

REASONS FOR GRANTING THE WRIT

While this matter included many other issues and circumstances, ultimately Segundo Suenos' claim was defeated because the Trial Court and Second District concluded that the ARF-Segundo Suenos' assignment did not satisfy the requirements set forth by Section 204(a) of the United States Copyright Act (17 U.S.C. Section 204(a)) -an argument which was not even raised until post trial briefing. In doing so, the Trial Court and Second District interpreted the application of Section 204(a)

of the Copyright Act and stepped beyond their jurisdiction.

This Court should grant review because, as stated, the conclusions of the Trial Court and the Second District (and by extension, via its denial of the petition for review, the California Supreme Court) were based upon those courts' interpretation of the United States Copyright Act when such interpretations are the exclusive province of the federal courts. Specifically, it is the federal judiciary alone which can determine under what circumstances copyright interests are created, exist or are transferred. *See* 28 USCA § 1338(a), *and see* Scholastic Entertainment, Inc. v. Fox Entertainment Group, Inc., 336 F.3d 982, 986 (9th Cir. 2003); *and* Image Software, Inc. v. Reynolds & Reynolds Co., 459 F.3d 1044, 1051 (10th Cir. 2006) .

This is different from situations in which a dispute concerns claims of ownership over rights which "arise from" federal statutes relating to

patents, copyrights, trademarks. In those cases, state law governing contracts and torts would apply. "(T)he question of who owns the patent rights and on what terms typically is a question exclusively for state courts." Jim Arnold Corp. v. Hydrotech Systems, Inc., 109 F.3d 1567, 1572 (Fed. Cir. 1997); *see also* Prize Frize, Inc. v. Matrix (U.S.) Inc., 167 F.3d 1261, 1264 (9th Cir. 1999).

Indeed, this case was filed in state court and proceeded to trial because it appeared to be just such a case. Specifically, it was a dispute about who owned the Ohio Players' music interests, which, albeit were a creature of, and "arose from" federal copyright law; but the dispute itself was really only a breach of contract action about who owned those rights and who was entitled to the money derived from them.

It was only after trial, during the interminable post trial briefing marathon, that the issue of standing came to the center of the action. At that

point, the Trial Court (and later the Second District[1]) "crossed the Rubicon" from state to federal jurisdiction when it decided to interpret whether or not the underlying ARF-Segundo Suenos assignment satisfied the provisions of Section 204(a) of the United States Copyright Act. In so doing, it was not merely applying state contract law to rights emanating from a federal statute; it was deciding whether or not Segundo Suenos possessed the rights in the first place, and interpreting whether or not the ARF-Segundo Suenos written assignment satisfied the criteria of a federal standard articulated in Section 204(a) of the Copyright Act. However, adjudicating the validity of copyright or patent rights themselves are claims which "arise under" such laws, requires an interpretation and construction of those

---

1 It must be noted that on appeal Segundo Suenos addressed the merits of the Trial Court's conclusions, not its jurisdiction. However, the California Supreme Court was not constrained from reviewing issues not brought before the Court's of Appeal, rather it extends to any issue presented by the case. *See* California Rules of Court Rule 8.516(b)(2); *and see* People v. Braxton, 34 Cal.4th 798, 809, 22 Cal.Rptr.3d 46, 52 (2004); Cedars-Sinai Med. Ctr. v. Super.Ct. (Bowyer), 18 Cal.4th 1, 5-7, 74 Cal.Rptr.2d 248, 250-251 & fn. 2 (1998); *and* People v. Birks, 19 Cal.4th 108, 116, 77 Cal.Rptr.2d 848, 852, fn. 6 (1998).

laws, and is therefore the exclusive jurisdiction of the federal courts. *See* Christianson v. Colt Industries Operating Corp., 486 U.S. 800, 807-808 (1988). As such, the Trial Court and the Second District stepped beyond their jurisdiction in interpreting Section 204(a) of the United States Copyright Act to invalidate the ARF-Segundo Suenos' assignment.

This is an issue which begs for clarification from this Court. Of the few cases cited herein, most address patent cases, and only a few copyright. The distinction between copyright claims which merely concern state law principals such as breach of contract, and those which go to fundamental questions of the existence of the rights themselves is often not an easy one, and one upon which the Court's guidance would be helpful. Moreover, with the advent of the Internet and the widespread dissemination of a cornucopia of copyrighted material thereon (music, books, movies, etc.), copyright disputes have become more common and firm guidance on where jurisdiction will lie for such

disputes is imperative.

This case is also unique in that the application of federal law was not implicated by the pleadings herein, but only arose as a "johnny come lately" affirmative defense. The courts and practitioners require guidance on what should take place in such a circumstance: when an affirmative defense which requires the application and interpretation of federal law presents itself in trial or thereafter, what is the appropriate response for a state court judge? Should the judge reject the defense because it requires the application and interpretation of federal law? Or should the judge halt proceedings and direct the parties to federal court? Or should the judge essentially don a "federal hat" and go ahead and interpret federal law?

Presently these questions are not answered. This case provides the Court with an opportunity to do so.

CONCLUSION

For the foregoing reasons, Segundo Suenos petitions this Court for a writ of Certiorari.

Dated this 7th day of June 2010

Respectfully submitted,

PICK & BOYDSTON, LLP

By:

Brian D. Boydston
Attorneys for Petitioner
Segundo Suenos, LLC
617 South Olive Street,
Suite 400
Los Angeles, California
90014
(213) 624-1996
Fax (213)624-9073
bdb@pickboydston.com